

CONSERVATION COMMISSION  
REGULAR MEETING AUGUST 18, 2009

E. CURTIS AMBLER ROOM

These minutes are not verbatim, but represent a summary of major statements and comments. For minutes verbatim, refer to audiotapes on file in the Office of the Town Clerk. Audiotapes are retained for the minimum period required under the retention schedule as provided under Connecticut Law.

Chairman Block called the roll call at 7:00 p.m. and noted Commissioners Igielski, Pappa and Shapiro were present. Also present were Alternates Harlow and Turgeon and Mr. Anthony Ferraro, Town Engineer.

NOTE: Chairman Block designated that Alternate Harlow would vote for Commissioner Longo and Alternate Turgeon would vote for Commissioner Byer.

ITEM III  
ACCEPTANCE OF MINUTES

Regular Meeting of June 16, 2009

Commissioner Igielski noted the Commission could not act on the minutes tonight because there is not a quorum of members who were present at the June 16<sup>th</sup> meeting.

It was the consensus of the Commission members to carry the item over to the September meeting.

Regular Meeting of July 21, 2009

Commissioner Igielski noted on the bottom of Page 7, "General Remark" should read "There was a discussion among Commission members indicating that (that)...a motion would be made."

Motion made by Commissioner Igielski to accept the minutes as corrected and was seconded by Commissioner Shapiro. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

ITEM IV  
PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

ITEM VA (PUBLIC HEARING)  
APPLICATION 2009-7 for 152 Main Street (Map Amendment)

Mr. Anthony Ferraro, Town Engineer, read into the record a copy of the “Legal Notice” that appeared in the Hartford Courant on August 7, 2009 and August 14, 2009.

Attorney Vincent Sabatini, 1 Market Square, Newington, representing the applicant noted that Mr. George Logan, REMA was present and would make the presentation.

Mr. George Logan, REMA Ecological Services (listen to audio tape for Firm’s location and Mr. Logan’s credits), entered the following remarks into the record:

- A. The map submitted with the application and shown on the wall accurately reflects the wetland boundary limits found in the field on May 21, 2009.
- B. A previous application (1997) for the property showed significantly greater differences in wetland boundary limits (for the property). Mr. George Snarski was the soil scientist for the 1997 application.
- C. A report was submitted with the application to give an understanding of what is happening on the site.
- D. The method usually used (to determine wetland boundary limits) is an auger to dig test holes at a number of locations (which is determined by field conditions).
- E. Work was done on (Piper) Brook several years ago (resulting in disturbance to the area).
- F. Tests pits were dug at designated locations to determine the strata (wetlands by soil type) of the earth. The key purpose for digging the test pits was to determine the level of disturbance (placement of fill material) to the original wetland over the years.
- G. The guide line used to determine if the under lying wetland was functional in nature was if the height of the fill material was found to be two (2) feet or less. The locations of the test pits are shown on a map sheet contained in the previously noted report.
- H. The wetland boundary limits shown on the plan were based on the findings from the test pits and are conservative in nature.
- I. Based on the history of the site elevation 49.0 CGS Datum would satisfy the flood plain limit.

Commissioner Pappa asked what caused the change to the area? Recording Secretary Arburrr gave a summary of the Piper Brook Flood Control Project, which was the final leg (of the West Branch) of the Park River Watershed Program (and impacted Piper Brook from Main Street to the West Hartford Town Line).

Chairman Block said following the completion of the (Piper Brook) project, would not a study been done to determine if there was any change to the flood (elevation) level? Mr. Ferraro provided a response (listen to audio tape for his remarks).

Mr. Ferraro noted the property owner can pursue a LOMAR Application for a map amendment (to use the flood elevation of 49.0 and flood line location shown on the map by Mr. Flynn adjacent to Piper Brook).

Chairman Block asked is FEMA (flood elevation) shown on the map? Mr. Ferraro responded that the elevation is not shown on the map.

Attorney Sabatini said we are talking about wetlands not flood control. He also noted that there is less wetland this time than on previous approval (1997).

Mr. Logan noted the plan shows soil type limits not flood plain limits.

PUBIL PARTICIPATION: NONE

Motion made by Commissioner Igielski to close the Public Hearing on Application 2009-7 and was seconded by Commissioner Pappa. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

Motion made by Commissioner Pappa to move ITEM VI F to the top of OLD BUSINESS on the agenda and was seconded by Commissioner Shapiro. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

#### ITEM VI F

PERMIT 96-14 for Glen Oaks Condominiums (Pond Dredging)

Ms. Sandy Martinik, President of the Glen Oaks Association, appeared before the Commission and entered the following remarks into the record relative to the depth of the pond and the amount sediment to be removed:

- A. Mr. Stanley Dynia, GZA GeoEnironmental by letter indicated that the depth of the pond was determined to be seven (7) feet by sound measurement taken at several locations.
- B. Mr. David Roach, All Habitat Services, has indicated that four (4) to six (6) inches of material would be removed under the plan.

Mr. Ferraro acknowledged that he received today the information previously noted (by Ms. Martinik).

Commissioner Igielski asked if Mr. Ferraro should be allowed time to prepare a response for Commission members?

Commissioner Pappa noted that the Town Attorney has said that work could be done as a maintenance activity.

Chairman Block noted that per the Town Attorney, no application is required. We have a clear picture as to what would be done. Therefore, we should leave things in Mr. Ferraro hands unless something new comes up.

Motion made by Commissioner Pappa to accept the material submitted tonight as an acceptable scope of work to be performed by Glen Oaks for the proposed activity; the proposed activity per the Town Attorney is maintenance in nature and no new permit would be required. Motion was seconded by Commissioner Shapiro. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

#### ITEM VI A

APPLICATION 2009-7 for 152 Main Street, Map Amendment

Commissioner Igielski said the application appears to be in order.

Commissioner Igielski asked if the application was complete? Mr. Ferraro responded yes.

Mr. Ferraro passed out a list of suggested reasons for consideration by Commission members. There was a general review of the reasons by Commission members.

Chairman Block said that he had a concern about the soil types found resulting from the reconstruction of the watercourse (Piper Brook) and the resulting disturbances. Is the change as a result of the disturbance justifiable? How can the Commission act?

Recording Secretary Peter Arburr provided an explanation on the emanation of the two (2) foot guideline for determination of a regulated wetland where fill material had been previously placed (listen to tape for details).

Alternate Harlow said information should be submitted that the area where fill material had been placed would return back to a wetland.

Attorney Sabatini said the Commission is getting carried away on the application and entered the following into the record:

- A. The Commission in 1997 issued a permit for basically the same plan and Town Map limits.
- B. This applicant retained a soil scientist who went out into the field and determined the wetland boundary limits by soil types.
- C. The wetland boundary limits found in the field reflected less wetland (area) than was used in 1997.
- D. The activity (construction of a new house) would occur in the buffer area not the wetland.

Mr. Logan indicated that (in his opinion) changes occurred along the Brook and the Connecticut Soil Map used as a basis for soils conforms to his findings.

Chairman Block entered the following remarks into the record:

- A. He wants to see the authority covering the two (2) foot of cover guide line.
- B. The prior permit (1997) has expired and the Commission is taking a fresh look.

Mr. Ferraro entered the following remarks into the record:

- A. For the Map Amendment we have boundary limits determined by a soil scientist (in the field) with no objection (at the public hearing).
- B. He attended a DEP Training Seminar (for Commissioners) where the two (2) foot cover guideline was discussed (listen to audio tape for details of his remarks).

Motion made by Commissioner Igielski to grant a permit by Plenary Ruling for Application 2009-7 for a Map Amendment and subject to noted reasons. Public Hearing was opened on August 18, 2009 and was closed on August 18, 2009. Motion was seconded by Alternate Harlow. Vote was 6 yes, 0 no and motion was carried.

NOTE: Refer to audio tape or "Official Notification of Action" for reasons of the permit.

#### ITEM VI B

##### APPLICATION 2009-8 for 152 Main Street

Attorney Vincent Sabatini noted the applicant Mr. Warren Kummer and Mr. George Logan (environmental consultant) were present.

Attorney Sabatini entered the following remarks into the record:

- A. All activity would occur within the 100 foot buffer area.
- B. The proposal is to construct a new single family home as shown on the plan.
- C. A total of 410 cubic yards of fill material would be required to implement the plan of which 210 cubic yards would come from the foundation excavation and 200 cubic yards would come from off site.
- D. No fill slope would exceed 2 on 1.
- E. Silt fence would be installed around the perimeter of the work area and would be maintained until area is stabilized.
- F. The basement elevation would be set at 50.0 versus the FEMA flood elevation of 49.0 for the area.

- G. The house location is approximately the same as was approved under the 1997 permit where the house was in the wetland and the basement elevation was 47.5 and the flood elevation was 54.0 (listen to audio tape for explanation of elevations).

Mr. George Logan, REMA Ecological Services (listen to audio tape for Firm's location and Mr. Logan's credits), entered the following remarks into the record:

- A. He explained the function of the wetland (listen to audio for details of his remarks).
- B. The proposal would result in minimum activity in the short term and long term and no adverse effect on the off site wetland.

Chairman Block noted that the grinder pump detail makes reference to an elevation of 51.0 to 52.0. How does the installation relate to the elevation of the ground water in the area? Mr. Logan responded there would be water seasonally.

Chairman Block asked what would be the effect of surface and ground water on the (grinder pump) system? Attorney Sabatini responded the pump is a sealed one piece unit and is strapped to a concrete pad so that it would not float up.

There was a general discussion among Commission members on the set up of the (pump) system and the effects of a possible back up (listen to audio tape for details of the discussion).

Mr. Ferraro entered the following remarks into the record:

- A. The elevations shown on the 1997 permit plan were based on the (old) MDC vertical datum; (whereas, today the Town is using CGS Datum system).
- B. The plan is certified by a licensed land surveyor not an engineer (no design for the grinder pump).
- C. The plan does not show a silt fence on the drain line out to the brook.
- D. The plan does not show a location for the construction pad.
- E. Plan calls for rip rap at the end of the footing drain line. However, there is no detail prepared by an engineer shown on the plan.

Alternate Harlow noted that the past practice is to have all information shown on the plan (prior to taking final action).

Attorney Sabatini said the applicant will meet any and all conditions to be shown on the plans prior to signing (of the plan[s] by the Chairman).

Chairman Block said (applicant should) have everything shown on the plans.

Chairman Block asked Mr. Ferraro what has been acceptable to other plans acted upon in the past? Mr. Ferraro responded a yes vote to approve with the addition of items to the plan that were contained in the "Conditions of Permit Approval" (The plans would not be signed by the Chairman until the additions were made to said plans).

Attorney Sabatini said the application was submitted in June and tonight is the first time that there is a problem. We are willing to abide by any comments by the Town Engineer.

Attorney Sabatini said the applicant has a commitment to sign a contract in September.

There was a discussion among Commission members (listen to audio tape for the details of the discussion) about taking an action without having all the information shown on the plan(s). It was suggested by Commissioner Igielski that the Commission could get an opinion from the Town Attorney on conditions to be included in a motion to issue a permit.

At the conclusion of the discussion, Commission Igielski said the following options were available to the Commission:

- A. Motion to approve tonight or table over to the September meeting.
- B. If motion fails, the applicant would have to start the process all over.

Mr. Ferraro noted the Commission must act tonight on the application unless an extension is granted to it by the applicant.

There was a general discussion on the ramifications if an extension was not granted to the Commission (listen audio tape for details of the discussion).

Mr. Logan noted that per the 2002 Sediment and Erosion Manual, the Manual allows him through his expertise to make the evaluations on the items under consideration. Therefore, an engineer would not be needed.

Attorney Sabatini said his client will submit a thirty five (35) day extension to next month.

Motion made by Commissioner Igielski to table the item to the September meeting and was seconded by Commissioner Pappa. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

#### ITEM VIC

APPLICATION 2009-9 for 1164 Willard Avenue

Mr. Ferraro entered the remarks into the record:

- A. He received word yesterday from the engineer (Mr. Ozzie Torres) who had been retained to come up with a design and scope of work (for the project).
- B. A letter was received from the applicant granting the Commission a thirty five (35) day extension for the application.

Commissioner Igielski noted that at next meeting, the Commission would only receive the engineer's report and the time frame (for the Commission to act) would go beyond the time limits. The best thing to do would probably be for the applicant to withdraw the current application and submit a new one.

Mr. Ferraro noted that the rush (of the applicant) to get the original application in was due to the fact that fines would be considered by the Commission.

There was a general discussion among Commission members relative to the complex nature of the application that could in result in the need for additional time to address the potential issues associated with the new plan. It was recognized the Commission could get its self into a box on being forced to act on the current application because the time limits allowed under the Statute could run out (listen to audio tape for details of the discussion).

It was the consensus of Commission members to ask the applicant to consider withdrawing the current application.

Motion made by Alternate Harlow to table the item over to the September meeting and was seconded by Commissioner Shapiro. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

#### ITEM VI D

##### APPLICATION 2009-10 for 121 styles Avenue

Mr. Ferraro reported that the applicant could not attend tonight's meeting. The applicant stated to him that since he had made a presentation at last month's meeting and adequate information was presented and no questions were raised, the Commission could act on the application tonight.

Chairman Block asked if the application was complete? Mr. Ferraro responded yes.

Motion made by Commissioner Igielski that based on the information before it, the Commission make a finding of fact that a public hearing is not necessary for Application 2009-10 because the proposed activities would not have a major impact or significant effect on the regulated areas. Motion seconded by Alternate Harlow. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

Mr. Ferraro passed out a list of suggested conditions for consideration by Commission members. There was a general review and discussion by Commission members.



Motion made by Commissioner Igielski to grant a permit by Summary Ruling for Application 2009-10 and subject to conditions. Motion was seconded by Alternate Harlow.

Mr. Ferraro noted that since Conditions “a”, “b”, “c” and “d” are not part of the Regulations, they would have to be read into the record.

Commissioner Igielski read the conditions into the record (listen to audio tape for details of the conditions).

Vote was 6 yes, 0 no and motion was carried.

NOTE: Refer to audio tape or “Official Notification of Action” for conditions of the permit.

#### ITEM VI E

APPLICATION 2009-11 for 457 Main Street

Chairman Block asked if the application was complete? Mr. Ferraro responded yes.

Motion made by Commissioner Igielski that based on the information before it, the Commission make a finding of fact that a public hearing is not necessary for Application 2009-11 because the proposed activities would not have a major impact or significant effect on the regulated areas. Motion seconded by Alternate Harlow. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

Mr. Ferraro passed out a list of suggested conditions for consideration by Commission members. There was a general review and discussion by Commission members.

Motion made by Commissioner Igielski to grant a permit by Summary Ruling for Application 2009-11 and subject to conditions. Motion was seconded by Alternate Harlow. There was no discussion. Vote was 6 yes, 0 no and motion was carried.

NOTE: Refer to audio tape or “Official Notification of Action” for conditions of the permit.

#### ITEM VII

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

#### ITEM VIII

COMMUNICATIONS AND REPORTS

- A. Mr. Ferraro reported that a zone change is being proposed to the Town Planning Zoning Commission for the Cedar Ridge land parcel (fronting on East Cedar Street). A copy of the application that was provided by the Town Planner was passed out to Commission members. Chairman Block requested that the material be reviewed and members be prepared to discuss the material at the September meeting.
- B. Mr. Ferraro reported that there were two (2) copies of the updated draft of the “2020 Plan of Conservation and Development” available for review by Commission members.

The document would be available on the web after September 1<sup>st</sup>. The Town Planner said that he would be available to discuss the document at the September meeting.

- C. Commissioner Igielski requested that the Town Attorney be asked to attend next month's meeting to address questions that have arisen from the opinion relative to Glen Oaks.
- D. Alternate Harlow noted there have been a number of hawk deaths in Newington. Someone in Berlin has said there is some evidence that poisoning may have been involved in the deaths. Chairman Block asked Alternate Harlow to look into the matter with DEP and report back to the Commission.

Motion made by Alternate Harlow to adjourn meeting at 9:35 p.m. and was seconded by Commissioner Pappa. There was no discussion. Vote was 6 yes, 0 no and motion was carried.

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Peter M. Arburr, Recording Secretary

Commission Members  
Tayna Lane, Town Clerk  
Town Manager John Salamone  
Edmund Meehan, Town Planner  
Councilor Myra Cohen  
Chairperson, Town Plan and Zoning Commission  
Anthony Ferraro, Town Engineer  
Ben Ancona Jr., Esquire, Town Attorney  
Lucy Robbins Wells Library (2)